

Introduced by Senator SherFebruary 21, 2003

An act to amend Section 66001 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 997, as introduced, Sher. Land use: development fees.

The Mitigation Fee Act requires a local agency, in establishing, increasing, or imposing a fee as a condition of approval of a development project, to identify the purpose of the fee and the use to which it is to be put. If the use is financing public facilities, the facilities are required to be identified and that identification may be made in applicable general or specific plan requirements.

This bill would provide instead that the identification of the public facilities may be made in an applicable general or specific plan. The bill also would make conforming changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66001 of the Government Code is
2 amended to read:
3 66001. (a) In any action establishing, increasing, or
4 imposing a fee as a condition of approval of a development project
5 by a local agency on or after January 1, 1989, the local agency shall
6 do all of the following:
7 (1) Identify the purpose of the fee.



(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in *an* applicable general or specific plan ~~requirements~~, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) (1) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

~~(1)~~

(A) Identify the purpose to which the fee is to be put.

~~(2)~~

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

~~(3)~~

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

~~(4)~~

(D) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.

~~When~~

(2) *When* findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete ~~public-improvements-facilities~~ identified in paragraph (2) of subdivision (a), and the public ~~improvements facilities~~ remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the ~~public-improvement-facility~~ will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

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